

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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First Premier Capital, LLC,

File No. 09-cv-00161 (PJS/TNL)

Plaintiff,

v.

**REPORT &  
RECOMMENDATION**

Wildwood Industries, Inc.,  
Gary K. Wilder, and  
Toni J. Wilder,

Defendants.

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Benjamin J. Court and John Harper III, Messerli & Kramer P.A., 1400 Fifth Street  
Towers, 100 South Fifth Street, Minneapolis, MN 55402 (for Plaintiff);

Daniel R. Kelly, Felhaber Larson Fenlon & Vogt, PA, 220 South 6th Street, Suite 2200,  
Minneapolis, MN 55402-4504 (for Defendant Wildwood Industries, Inc.); and

Gary K. Wilder and Toni J. Wilder, 109 Kreitzer Avenue, Bloomington, IL 61701 (pro  
se).

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**WHEREAS**, in a letter dated May 18, 2012, Plaintiff submitted a request to this Court for “an order administratively terminating this action without prejudice to [Plaintiff] or any party’s right to move to reopen the proceedings for good cause shown, for entry of any stipulation or order, or for any other purpose required to obtain a final determination of the litigation” in light of the protracted bankruptcy proceedings of Defendants Gary K. and Toni J. Wilder (Docket No. 33);

**WHEREAS**, Plaintiff has previously been ordered to show cause why this matter “should not be dismissed without prejudice in view of defendants’ ongoing bankruptcy proceedings,” (Docket No. 24);

**WHEREAS**, Plaintiff’s May 18 letter represents a change in position from Plaintiff’s prior response to the order to show cause (*compare* Docket No. 33 with Docket No. 25);

**WHEREAS**, Federal Rule of Civil Procedure 41(a)(2) permits the Court to dismiss an action at the plaintiff’s request;

**IT IS HEREBY RECOMMENDED** that Plaintiff’s letter request (Docket No. 33) **BE GRANTED** and this matter be **DISMISSED WITHOUT PREJUDICE**.

Date: June 1, 2012

s/ Tony N. Leung  
Tony N. Leung  
United States Magistrate Judge  
for the District of Minnesota

Pursuant to Local Rule 72.2(b), any party may object to this Report and Recommendation by filing with the Clerk of Court and by serving upon all parties written objections that specifically identify the portions of the Report to which objections are made and the basis of each objection. This Report and Recommendation does not constitute an order or judgment from the District Court and it is therefore not directly appealable to the Circuit Court of Appeals. Written objections must be filed with the Court before **June 15, 2012**.